

PIC AND POPS CONVENTIONS AND THE LRTAP POPS
PROTOCOL IMPLEMENTATION ACT

SEPTEMBER 19, 2006.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. GOODLATTE, from the Committee on Agriculture,
submitted the following

R E P O R T

[To accompany H.R. 3849]

[Including cost estimate of the Congressional Budget Office]

The Committee on Agriculture, to whom was referred the bill (H.R. 3849) to amend the Federal Insecticide, Fungicide, and Rodenticide Act to implement pesticide-related obligations of the United States under the international conventions or protocols known as the PIC Convention, the POPs Convention, and the LRTAP POPs Protocol, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

BRIEF EXPLANATION

H.R. 3849 will amend the Federal Insecticide, Fungicide, and Rodenticide Act to implement pesticide-related obligations of the United States under the international conventions or protocols known as the PIC Convention, the POPs Convention, and the LRTAP POPs Protocol.

PURPOSE AND NEED

H.R. 3849 provides the necessary legislation to implement the Federal, Insecticide, Fungicide, and Rodenticide Act (FIFRA)-related provisions of three international agreements: the Stockholm Convention on Persistent Organic Pollutants (POPs), the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals in International Trade (PIC), and the Protocol on Persistent Organic Pollutants to the 1979 Convention on Long-Range Transboundary Air Pollution (LRTAP POPs

Protocol). U.S. ratification of these three agreements requires targeted amendments to both FIFRA and the Toxics Substances Control Act (TSCA) to ensure that the United States can meet and effectively implement the obligations of the agreements.

The Stockholm Convention on Persistent Organic Pollutants (POPs) aims to protect human health and the environment from chemicals that are of particular concern because they are known to be toxic, bioaccumulative, resistant to natural breakdown, and capable of long-range transport. Each of the twelve chemicals in the Convention has been scientifically linked to adverse human health effects and are already banned, severely restricted, or controlled in the United States. These chemicals are still in use in many places abroad, particularly in developing countries. The Convention prohibits production and use of eight pesticides and industrial chemicals subject to certain exemptions. The Convention also restricts DDT use to public health applications and prohibits new PCB production, while imposing import and export controls on listed chemicals. Parties promote the application of Best Available Techniques (BAT) on key industrial sources and ensure POPs wastes are managed in an environmentally sound manner. The Convention creates a science-based procedure to consider the addition of other chemicals that may be POPs. The Convention entered into force in May of 2004.

The Convention on Long-Range Transboundary Air Pollution (LRTAP) POPs Protocol is a regional agreement negotiated primarily by developed countries. It was finalized prior to the global Stockholm Convention, and the Protocol was used in some ways as a model for the Convention. The structure and core obligations of the Stockholm Convention and LRTAP POPs agreements are very similar in restricting the production, use, or release of certain toxic chemicals. There are three main differences between the two agreements. First, the LRTAP POPs is a regional agreement open only to states in Europe, the former Soviet States, Canada, and the United States. Second, the LRTAP POPs Protocol does not include the same kind of trade measures nor provisions for financial and technical assistance found in the POPs treaty. Finally, the LRTAP POPs Protocol covers four additional chemicals in its scope, each of which is banned or controlled in the United States. The LRTAP POPs Protocol entered into force in October of 2003.

The Rotterdam Convention establishes an information-sharing process that facilitates informed decision-making about whether to import a listed chemical. Both importing and exporting Parties have responsibilities to facilitate information exchange on the risks associated with a listed chemical. The scope of the Convention is limited to banned or severely restricted industrial chemicals and pesticides and to severely hazardous pesticide formulations. Importing Parties make a notification of whether/how they will allow for imports of each listed chemical, and exporting Parties ensure that any exports are not contrary to an importing Party's notification. The Rotterdam Convention includes a technical committee, the Chemical Review Committee, which reviews notifications in accordance with the Convention's criteria, and may recommend to the Parties whether to list additional chemicals. The Convention entered into force in February of 2004.

Over the last 30 years, the United States has taken extensive steps to address the twelve substances covered by the POPs Convention and the sixteen LRTAP substances, as well as the thirty nine substances found on the PIC list. As a result, the United States is generally in compliance with the treaty. There are only a few small gaps to close in terms of U.S. legislative authorities, such as formally prohibiting production of listed pesticides and prohibiting potential future use of unregistered pesticides. The legislation passed by this Committee, outlined in the following review of the bill, H.R. 3849, closes those gaps by amending FIFRA, and a complementary bill has been passed by the House Energy and Commerce Committee (H.R. 4591) amending the Toxic Substance Control Act.

SECTION-BY-SECTION ANALYSIS

Section 1—Short title

Sec. 2—Definitions

Amends section 2 of FIFRA by adding the definitions of Conference, Conference Listing Decision, Designated National Authority, Executive Body, Executive Body Decision, HCH, a list of LRTAP POPs Pesticides, LRTAP Pops Protocol, PCB, PIC Convention, POPs Convention, POPs Pesticide, POPs review Committee.

Sec. 3—Amendments to section 17 of FIFRA reflecting new paragraphs (a)(2–14)

Amends section 17 of FIFRA in the following ways (section and paragraph references below refer to FIFRA as amended by this bill)—

Section 17(a)(2)

Amends section 17(a)(2) and provides that a purchaser of a pesticide that is not registered under section 3 or sold under section 6(a)(1) is required to sign a statement prior to export acknowledging that the purchaser understands that such pesticide is not registered for sale in the U.S.

Section 17(c). Importation of pesticides and devices

Amends 17(c) to provide that nothing in this subsection allows for importation of a POPS pesticide or LRTAP POPs pesticide that otherwise is prohibited under subsection (e), the POPs Convention, LRTAP Pops Protocol and PIC Convention subsection.

Section 17(d). Cooperation in international efforts generally

Directs the administrator to participate and cooperate in international efforts to develop and improve pesticide research and regulations.

Section 17(e)(1). In general

Directs the Administrator to participate in “technical cooperation and capacity building activities” designed to support implementation of the POPs Convention, the LRTAP Pops Protocol and the PIC Convention.

Section 17(e)(2). Prohibitions

Prohibits anyone from selling, producing, using, distributing, or disposing in ways contrary to the POPs or LRTAP convention.

Section 17(e)(3). Notice and report after decision that screening criteria are met under the POPs Convention or after risk profile submitted under the LRTAP POPs protocol

Provides that new paragraph (e)(3) applies if POPs Review Committee or Conference decides proposal to list pesticide fulfills screening criteria or shall proceed or if there is a risk profile supporting a proposal under the LRTAP POPs Protocol. Further provides that the administrator may publish notice about the activities of the LRTAP or POPs bodies. Allows for interested persons to comment and lists the required elements of the notice. Directs the Administrator to publish for comments and peer review, a report in consultation with USDA and HHS about the use of that chemical in the U.S.A. and internationally. Such report shall be published not later than 240 days after notice publication.

Section 17(e)(4). Notice and report after decision that global action is warranted under the POPs Convention or that further consideration of the pesticide is warranted under the LRTAP POPs protocol

Provides that this paragraph applies if the POPs Review Committee or the Executive Body determines that global action is warranted or that further consideration is warranted. Authorizes the Administrator to publish the decision in the Federal Register and allow an opportunity to comment. Provides the elements of such notice and requires a comment period of 60 days from the date of publication. Further provides that the Administrator shall issue a report for public comment within 240 days of the publication of notice.

Section 17(e)(5). Notice after recommendation that conference consider listing or after completion of a technical review

Provides that this paragraph applies if the POPs Review Committee recommends consideration of a Conference listing decision (under paragraph 9 of Article 8 of the POPs Convention) or after a Technical Review of a proposal to list a pesticide on an Annex. Provides that the Administrator may publish in the Federal Register a notice of the recommendation or the technical review. Further provides the elements of such notice.

Section 17(e)(6). Provision of information to the public

Requires the Administrator to publish notice once a year in the Federal Register that identifies any pesticide that is the subject of a listing proposal under article 8 of the POPs protocol or Article 14 of the LRTAP POPs Protocol, any pesticide that the Conference or Executive Body has added to Annex A or B of the POPs Convention or Annex I or II of the LRTAP POPs Protocol, and describes any regulatory action the Administrator has taken or is taking related to any pesticide that the Conference or Executive Body added to Annex A or B of the POPs Convention or Annex I or II of the LRTAP POPs Protocol.

Section 17(e)(7). Consideration of information in cancellation of registration or prohibition of production for export or export of pesticides

Provides the factors that the Administrator may consider in the case of a cancellation proceeding under section 6 of FIFRA.

Section 17(e)(8). No effect on other provisions

Provides that nothing in subsection (e) shall authorize the sale of any POPs or LRTAP POPs pesticide that is prohibited under other law.

Section 17(e)(9). Requirements for exports

Requires any person that distributes a pesticide listed in Annex III of the PIC Convention to comply with restrictions or conditions of import by foreign governments, as identified by the Administrator.

Section 17(e)(10). Pre-export notices

Requires an exporter of a pesticide or active ingredient used in producing a pesticide to provide notice to the Administrator in certain cases. Provides the time frame for such notice and permits the Administrator to change the time frames if the Administrator determines that an alternate time frame is appropriate. Requires the Administrator to review the time frames within 18 months of entry into force of the PIC Convention and within 19 months of entry into force of the POPs Convention to determine whether changes need to be made. Describes the content of pre-export notices. Requires an exporter to ensure that a copy of the most recent applicable pre-export notice accompanies each shipment for export and is available for inspection. Further requires exporters to retain pre-export notices and the records used to write the notice for not less than 3 years beginning on the date on which the notice is provided.

Section 17(e)(11). Labeling requirements

Requires any PIC pesticide that requires a pre-export notice to bear a label identifying risks or hazards to health and the environment and shall include safety information. Further requires any PIC pesticide to bear a label with appropriate harmonized system customs codes assigned by the World Customs Organization.

Section 17(e)(12). Notice requirements and exemption

Requires the Administrator to determine whether a pesticide is banned or severely restricted in the U.S. The Administrator shall issue to the Secretariat of the PIC Convention the information specified in Annex I of the PIC Convention and to the public a summary of that information.

Requires the Administrator to provide a copy of the export notice to the importing country once notice of export is received.

Requires the Administrator to give notice to the public on any pesticide listed on Annex III to the PIC Convention and any condition or restriction of an importing state. The notice shall be issued not later than 90 days and shall take effect not later than 180 days after the date of receipt from the Secretariat of the PIC Convention. A noticed restriction/condition shall be considered to be an export condition or restriction.

Authorizes the Administrator to issue an exemption for any pesticide or active ingredient if the administrator determines that the exemption would be consistent with the PIC Convention or POPs Convention.

Section 17(e)(13). Harmonization of POPs Convention and LRTAP POPs Protocol

Provides that when a pesticide is both a POPs pesticide and a LRTAP POPs pesticide, the Administrator should determine the more stringent provision of this subsection and apply such provision. Further provides that this paragraph shall be applied so that the United States is in compliance with its obligations under both the POPs Convention and LRTAP POPs Protocol.

Section 17(e)(14). Harmonization of POPs Convention and PIC Convention

Provides that if the export of a pesticide is restricted under paragraphs (2) through (7) and (9) through (12), all those paragraphs shall apply, but if conflict exists between these provisions, the more stringent provision shall govern. Requires application of paragraphs (2) through (12) to comply with the United States' obligations under the POPs Convention and the PIC Convention.

Section 17(f). Regulations

Authorizes the Administrator to issue necessary regulations, and requires the Secretary of the Treasury to issue regulations for the enforcement of subsection (c) of section 17.

Section 4—Conforming amendments

Section 5—Conforming amendments to FIFRA table of contents

COMMITTEE CONSIDERATION

I. HEARINGS

On July 20, 2006, the Committee on Agriculture held a hearing on H.R. 3849, legislation necessary to ratify three international treaties regulating the use of chemicals to protect human health as well as environmental health. The treaties involved include: the Stockholm Convention on Persistent Organic Pollutants (PICs), the Protocol on Persistent Organic Pollutants to the Convention on Long-Range Transboundary Air Pollution (LRTAP POPs), and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (POPs). H.R. 3849 would amend the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) to put the U.S. in compliance with the treaties.

II. FULL COMMITTEE CONSIDERATION

The Committee on Agriculture met, pursuant to notice, with a quorum present, on July 27, 2006, to consider H.R. 3849, legislation to amend the Federal Insecticide, Fungicide, and Rodenticide Act to implement pesticide-related obligations of the United States under the international convention or protocols known as the PIC Convention, the POPs Convention, and the LRTAP POPs Protocol.

By unanimous consent, the Subcommittee on Conservation, Credit, Rural Development, and Research was discharged from further consideration and H.R. 3849 was placed before the full Committee and opened for amendment at any point.

Members were recognized and each made a statement in support of the legislation. Counsel was also recognized for a brief explanation of the bill. There being no amendments, Mr. Peterson moved that H.R. 3849 be reported favorably to the House with the recommendation that it pass.

By a voice vote, and in the presence of a quorum, H.R. 3849 was ordered favorably reported to the House.

Chairman Goodlatte then advised Members that pursuant to the rules of the House of Representatives that Members have 2 calendar days to file such views with the Committee. No Members came forth with intent to file additional views.

Without objection, staff was given permission to make any necessary clerical, technical or conforming changes to reflect the intent of the Committee.

Chairman Goodlatte thanked all the Members and adjourned the meeting subject to the call of the chair.

REPORTING THE BILL—ROLLCALL VOTES

In compliance with clause 3(b) of rule XIII of the House of Representatives, H.R. 3849 was reported by voice vote with a majority quorum present. There was no request for a recorded vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Agriculture's oversight findings and recommendations are reflected in the body of this report.

BUDGET ACT COMPLIANCE (SECTIONS 308, 402, AND 423)

The provisions of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a)(1) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority, new spending authority, new credit authority, or increased or decreased revenues or tax expenditures) are not considered applicable. The estimate and comparison required to be prepared by the Director of the Congressional Budget Office under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and sections 402 and 423 of the Congressional Budget Act of 1974 submitted to the Committee prior to the filing of this report are as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 9, 2006.

Hon. BOB GOODLATTE,
*Chairman, Committee on Agriculture,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3849, the PIC and POPs Conventions and the LRTAP POPs Protocol Implementation Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susanne S. Mehlman.

Sincerely,

DONALD B. MARRON,
Acting Director.

Enclosure.

H.R. 3849—PIC and POPs Conventions and the LRTAP POPs Protocol Implementation Act

H.R. 3849 would amend the Federal Insecticide, Fungicide, and Rodenticide Act to authorize the Environmental Protection Agency (EPA) to implement pesticide-related provisions of three international environmental agreements: the Stockholm Convention on Persistent Organic Pollutants (POPs Convention), the Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution for POPs (POPs Protocol to LRTAP), and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (PIC Convention). Those agreements are intended to help protect environmental and human health by eliminating or restricting the use of certain pesticides and to provide a means for participating countries to obtain and disseminate information about chemicals that may be imported and exported.

CBO estimates that implementing H.R. 3849 would cost \$5 million over the next five years, assuming appropriation of the necessary amounts. Those funds would support additional personnel for EPA. Although the agency currently regulates many of the pesticides that would be affected by these agreements, this legislation would add to its responsibilities. Specifically, EPA would participate in the international process for determining whether additional pesticides should be prohibited or restricted from use under the agreements. The agency would then oversee the process necessary to implement any prohibition or restriction that the United States chooses to pursue. EPA's duties would include issuing public notices following decisions by the committees established under the agreements, issuing reports on the benefits and risks associated with the use of certain pesticides, and developing and enforcing regulations.

Based on information from EPA, CBO estimates that these activities would cost about \$1 million a year, assuming appropriation of the necessary amounts. Enacting H.R. 3849 would not affect direct spending or revenues.

Section 4 of the Unfunded Mandates Reform Act excludes from the application of that act any legislative provisions that are necessary for the ratification or implementation of international treaty obligations. Because this bill would implement three treaties, it falls within that exclusion. CBO has thus not reviewed the bill for intergovernmental or private-sector mandates.

On August 3, 2006, CBO transmitted a cost estimate for H.R. 4591, the Stockholm and Rotterdam Toxics Treaty Act of 2006, as ordered reported by the House Committee on Energy and Commerce on July 21, 2006. H.R. 4591 and H.R. 3849 address the implementation of the same international treaties. H.R. 4591 would require EPA to conduct a cost-benefit analysis when deciding whether to prohibit or ban certain chemicals. H.R. 3849 would not

specifically require a cost-benefit analysis by EPA in its review of any pesticides under the international agreements. The CBO cost estimates for these bills reflect these differences.

The CBO staff contacts for this estimate is Susanne S. Mehlman. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objections of this legislation are to amend the Federal Insecticide, Fungicide, and Rodenticide Act to implement pesticide-related obligations of the United States under the international conventions or protocols known as the PIC Convention, the POPs Convention, and the LRTAP POPs Protocol.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the Constitutional authority for this legislation in Article I, clause 8, section 18, that grants Congress the power to make all laws necessary and proper for carrying out the powers vested by Congress in the Constitution of the United States or in any department or officer thereof.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the Committee report incorporates the cost estimate prepared by the Director of the Congressional Budget Office pursuant to sections 402 and 423 of the Congressional Budget Act of 1974.

ADVISORY COMMITTEE STATEMENT

No advisory committee within the meaning of section 5(b) of the Federal Advisory Committee Act was created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104-1).

FEDERAL MANDATES STATEMENT

The Committee adopted as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104-4).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omit-

ted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) * * *

(b) TABLE OF CONTENTS.—

Section 1. Short title and table of contents.

(a) Short title.

(b) Table of contents.

Sec. 2. Definitions.

(a) Active ingredient.

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(pp) Conference.

(qq) Conference Listing Decision.

(rr) Designated national authority.

(ss) Executive Body.

(tt) Executive Body Decision 1998/2.

(uu) HCH.

(vv) LRTAP POPs pesticide.

(ww) LRTAP POPs protocol.

(xx) PCB.

(yy) PIC Convention.

(zz) POPs Convention.

(aaa) POPs pesticide.

(bbb) POPs Review Committee.

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Sec. 17. Imports and exports.

(a) Pesticides and devices intended for export.

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[(d) Cooperation in international efforts.

](e) Regulations.]

(d) Cooperation in international efforts generally.

(e) Pops Convention, LRTAP Pops Protocol, and PIC Convention.

(1) In general.

(2) Prohibitions.

(3) Notice and report after decision that screening criteria are met under the POPS Convention or after risk profile submitted under the LRTAP POPS Protocol.

(4) Notice and report after decision that global action is warranted under the POPS Convention or that further consideration of the pesticide is warranted under the LRTAP POPS Protocol.

(5) Notice after recommendation that conference consider listing or after completion of a technical review.

(6) Provision of information to the public.

(7) Consideration of information in cancellation of registration or prohibition of production for export or export of pesticides.

(8) No effect on other provisions.

(9) Requirements for exports.

(10) Pre-export notices.

(11) Labeling requirements.

(12) Notice requirements and exemption.

(13) Harmonization of POPS convention and LRTAP POPS protocol.

(14) Harmonization of POPS convention and PIC convention.

(f) Regulations.

(1) In general.

(2) Importation of pesticides and devices.

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SEC. 2. DEFINITIONS.

For purposes of this Act—

(a) * * *

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(pp) *CONFERENCE*.—The term “Conference” means the Conference of the Parties established by paragraph 1 of Article 19 of the POPs Convention.

(qq) *CONFERENCE LISTING DECISION*.—The term “Conference Listing Decision” means a decision by the Conference to approve an amendment to list a pesticide in Annex A or Annex B to the POPs Convention.

(rr) *DESIGNATED NATIONAL AUTHORITY*.—The term “designated national authority” means the authority or authorities that a government has designated in a notification to the PIC Convention Secretariat in accordance with Article 4 of the PIC Convention.

(ss) *EXECUTIVE BODY*.—The term “Executive Body” means the Executive Body established by Article 10 of the 1979 Convention on Long-Range Transboundary Air Pollution.

(tt) *EXECUTIVE BODY DECISION 1998/2*.—The term “Executive Body Decision 1998/2” means the decision of the Executive Body titled “Executive Body Decision 1998/2 on Information to Be Submitted and the Procedure for Adding Substances to Annexes I, II, or III to the Protocol on Persistent Organic Pollutants” and any other Executive Body decision done pursuant to Article 14 of the LRTAP POPs Protocol.

(uu) *HCH*.—The term “HCH” means hexachlorocyclohexane.

(vv) *LRTAP POPs PESTICIDE*.—The term “LRTAP POPs pesticide” means—

- (1) aldrin;
- (2) chlordane;
- (3) chlordane;
- (4) dichlorodiphenyltrichloroethane (DDT);
- (5) dieldrin;
- (6) endrin;
- (7) HCH;
- (8) heptachlor;
- (9) hexachlorobenzene;
- (10) hexabromobiphenyl;
- (11) mirex;
- (12) PCBs;
- (13) toxaphene; and
- (14) any other pesticide—

(A) that is listed on Annex I or Annex II of the LRTAP POPs Protocol;

(B) that has no existing United States registrations that would prevent the United States from complying with its obligations under the LRTAP POPs Protocol if the United States were to become a party to the LRTAP POPs Protocol for that pesticide; and

(C) for which an amendment listing it on Annex I or Annex II of the LRTAP POPs Protocol has entered into force for the United States.

(ww) *LRTAP POPs PROTOCOL*.—The term “LRTAP POPs Protocol” means the Protocol on Persistent Organic Pollutants to the 1979 Convention on Long-Range Transboundary Air Pollution done at Aarhus on June 24, 1998, if the United States is a party and any subsequent amendment to which the United States is a party.

(xx) *PCB*.—The term “PCB” means a polychlorinated biphenyl.

(yy) *PIC CONVENTION*.—The term “PIC Convention” means the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade done at Rotterdam on September 10, 1998, if the United States is a party and any subsequent amendment to which the United States is a party.

(zz) *POPS CONVENTION*.—The term “POPs Convention” means the Stockholm Convention on Persistent Organic Pollutants done at Stockholm on May 22, 2001, if the United States is a party and any subsequent amendment to which the United States is a party.

(aaa) *POPS PESTICIDE*.—The term “POPS pesticide” means—

- (1) aldrin;
- (2) chlordane;
- (3) dichlorodiphenyltrichloroethane (DDT);
- (4) dieldrin;
- (5) endrin;
- (6) heptachlor;
- (7) hexachlorobenzene;
- (8) mirex;
- (9) PCBs;
- (10) toxaphene; and
- (11) any other pesticide—

(A) that is listed on Annex A or Annex B of the POPs Convention;

(B) that has no existing United States registrations that would prevent the United States from complying with its obligations under the POPs Convention if the United States were to become a party to the POPs Convention for that pesticide; and

(C) for which an amendment listing it on Annex A or Annex B of the POPs Convention has entered into force for the United States.

(bbb) *POPS REVIEW COMMITTEE*.—The term “POPs Review Committee” means the Persistent Organic Pollutants Review Committee established under paragraph 6 of Article 19 of the POPs Convention.

SEC. 3. REGISTRATION OF PESTICIDES.

(a) * * *

(b) *EXEMPTIONS*.—[A pesticide] *Except as provided in section 17, a pesticide* which is not registered with the Administrator may be transferred if—

(1) * * *

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SEC. 12. UNLAWFUL ACTS.

(a) *IN GENERAL*.—

(1) * * *

(2) It shall be unlawful for any person—

(A) * * *

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(R) to submit to the Administrator data known to be false in support of a registration; [or]

(S) to violate any regulation issued under section 3(a) or 19[.]; or
 (T) to violate any provision of section 17 or any regulation promulgated under that section.

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SEC. 17. [IMPORTS AND EXPORTS.] IMPORTS, EXPORTS, AND INTERNATIONAL CONVENTIONS.

(a) PESTICIDES AND DEVICES INTENDED FOR EXPORT.—Notwithstanding any other provision this Act, no pesticide or device or active ingredient used in producing a pesticide intended solely for export to any foreign country shall be deemed in violation of [this Act—] *this Act, if—*

(1) [when] *the pesticide or device or active ingredient used in producing a pesticide is prepared or packed according to the specifications or directions of the foreign purchaser, except that producers of such pesticides and devices and active ingredients used in producing pesticides shall be subject to sections 2(p), 2(q) (1) (A), (C), (D), (E), (G), and (H), 2(q) (2) (A), (B), (C) (i) and (iii), and (D), 7, and 8 of this Act; [and]*

[(2) in the case of any pesticide other than a pesticide registered under section 3 or sold under section 6(a) (1) of this Act, if, prior to export, the foreign purchaser has signed a statement acknowledging that the purchaser understands that such pesticide is not registered for use in the United States and cannot be sold in the United States under this Act.

A copy of that statement shall be transmitted to an appropriate official of the government of the importing country.]

(2) *in the case of any pesticide other than a pesticide registered under section 3 or sold under section 6(a)(1), the foreign purchaser has, prior to export, signed a statement acknowledging that the purchaser understands that the pesticide is not registered for use in the United States and cannot be sold in the United States under this Act; and*

(3) *such export is in compliance with all of the applicable provisions of this section.*

A copy of the statement under paragraph (2) shall be transmitted to an appropriate official of the government of the importing country.

* * * * *

(c) IMPORTATION OF PESTICIDES AND DEVICES.—The Secretary of the Treasury shall notify the Administrator of the arrival of pesticides and devices and shall deliver to the Administrator, upon the Administrator's request, samples of pesticides or devices which are being imported into the United States, giving notice to the owner or consignee, who may appear before the Administrator and have the right to introduce testimony. If it appears from the examination of a sample that it is adulterated, or misbranded or otherwise violates the provisions set forth in this Act, or is otherwise injurious to health or the environment, the pesticide or device may be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any pesticide or device refused delivery which shall not be exported by the consignee within 90 days from the date of notice of such refusal under such regulations as the Secretary of the Treasury may pre-

scribe. The Secretary of the Treasury may deliver to the consignee such pesticide or device pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such pesticide or device, together with the duty thereon, and on refusal to return such pesticide or device for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of said bond. All charges for storage, cartage, and labor on pesticides or devices which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee. *Nothing in this subsection shall permit the import of any POPS pesticide or LRTAP POPS pesticide that otherwise is prohibited under subsection (e) of this section.*

[(d) COOPERATION IN INTERNATIONAL EFFORTS.—The Administrator shall, in cooperation with the Department of State and any other appropriate Federal agency, participate and cooperate in any international efforts to develop improved pesticide research and regulations.]

[(e) REGULATIONS.—The Secretary of the Treasury, in consultation with the Administrator, shall prescribe regulations for the enforcement of subsection (c) of this section.]

(d) COOPERATION IN INTERNATIONAL EFFORTS GENERALLY.—*The Administrator shall participate and cooperate in any international efforts to develop improved pesticide research and regulations.*

(e) POPS CONVENTION, LRTAP POPS PROTOCOL, AND PIC CONVENTION.—

(1) IN GENERAL.—*The Administrator shall participate in technical cooperation and capacity building activities designed to support implementation of the POPs Convention, the LRTAP POPs Protocol, and the PIC Convention.*

(2) PROHIBITIONS.—*No person may sell, distribute, use, produce, or dispose of a POPS pesticide or LRTAP POPS pesticide in a manner inconsistent with obligations of the United States under the POPs Convention or LRTAP POPs Protocol.*

(3) NOTICE AND REPORT AFTER DECISION THAT SCREENING CRITERIA ARE MET UNDER THE POPS CONVENTION OR AFTER RISK PROFILE SUBMITTED UNDER THE LRTAP POPS PROTOCOL.—

(A) APPLICABILITY.—*This paragraph applies if—*

(i) *the POPs Review Committee or Conference decides—*

(I) *under paragraph 4(a) of Article 8 of the POPs Convention, that a proposal for listing a pesticide in Annex A, B, or C to the POPs Convention fulfills the screening criteria specified in Annex D to the POPs Convention; or*

(II) *under paragraph 5 of Article 8 of the POPs Convention, that such a proposal shall proceed; or*

(ii) *a party to the LRTAP POPs Protocol submits to the Executive Body a risk profile in support of a proposal to list a pesticide in Annex I, II, or III to the LRTAP POPs Protocol.*

(B) NOTICE.—*After the date of the POPs Review Committee or Conference decision on a proposal or the submis-*

sion of a risk profile in support of a proposal under the LRTAP POPs Protocol described in clauses (i) or (ii) of subparagraph (A), respectively, the Administrator may—

(i) publish in the Federal Register a notice of the proposal; and

(ii) provide opportunity for comment on the proposal.

(C) *REQUIRED ELEMENTS OF NOTICE.*—A notice under subparagraph (B) shall—

(i) identify the pesticide that is the subject of the proposal;

(ii) include a summary of the process under the POPs Convention or the LRTAP POPs Protocol for the submission of a proposal and listing of a pesticide that is the subject of a proposal (including criteria applied in that process);

(iii) include a summary of the POPs Review Committee or Conference decision and the basis for the decision or a summary of the risk profile that a party to the LRTAP POPs Protocol submitted to the Executive Body;

(iv) request information relevant to and comment on—

(I) in the case of a pesticide proposed for listing in an Annex to the POPs Convention, the information requirements and screening criteria elements covered under Annex D to the POPs Convention; or

(II) in the case of a pesticide proposed for listing in an Annex to the LRTAP POPs Protocol, the information referenced in paragraph 6(a) of Article 14 of the LRTAP POPs Protocol;

(v) request information set forth in subparagraph (D);

(vi) include any other information that the Administrator considers to be relevant to the proposal;

(vii) request information and comment on information relevant to the risk profile of the POPs Review Committee covered under Annex E to the POPs Convention and on information relevant to any technical review conducted under paragraph 2 of Executive Body Decision 1998/2; and

(viii) include a statement that any information submitted may be part of the record of any cancellation proceeding related to the pesticide that the Administrator may undertake under section 6.

(D) *PROVISION OF INFORMATION.*—

(i) *PROVISION OF INFORMATION UNDER POPS CONVENTION.*—Within 60 days after the date of publication of the notice under subparagraph (B) regarding a proposal to list a pesticide on an Annex to the POPs Convention, or within a later date as determined by the Administrator, any interested person may provide to the Administrator information or comment on—

(I) the annual quantity of the pesticide manufactured and the locations of the manufacture;

(II) the uses of the pesticide;

(III) the approximate annual quantity of the pesticide that is released into the environment; and

(IV) other information or monitoring data relating to the pesticide that is consistent with the information specified in paragraph 1 of Annex D, and subsections (b) through (e) of Annex E, to the POPs Convention.

(ii) *PROVISION OF INFORMATION UNDER LRTAP POPS PROTOCOL.*—Within 60 days after the date of publication of the notice under subparagraph (B) regarding a proposal to list a pesticide on an Annex of the LRTAP POPs Protocol, or within a later date as determined by the Administrator, any interested person may provide to the Administrator information on—

(I) the potential for long-range transboundary atmospheric transport of the pesticide;

(II) the toxicity of the pesticide;

(III) the persistence of the pesticide, including biotic degradation process and rates of degradation products;

(IV) the bioaccumulation of the pesticide, including bioavailability;

(V) the annual quantity of the pesticide manufactured and the locations of the manufacture;

(VI) the uses of the pesticide;

(VII) the approximate annual quantity of the pesticide released into the environment;

(VIII) environmental monitoring data relating to the pesticide (in areas distant from sources);

(IX) information on—

(aa) alternatives to the uses of the pesticide and the efficacy of each alternative; and

(bb) known adverse environmental or human health effects associated with each alternative;

(X) information on—

(aa) process changes, control technologies, operating practices, and other pollution prevention techniques that can be used to reduce the emissions of the pesticide; and

(bb) the applicability and effectiveness of each technique describe in item (aa); and

(XI) information on nonmonetary costs and benefits and the quantifiable costs and benefits associated with the use of each alternative described in subclause (IX) or technique described in subclause (X)(aa).

(E) *REPORT BY ADMINISTRATOR.*—Based upon information received under this paragraph and any other relevant information available to the Administrator, the Administrator, not later than 240 days after the date of publication of a notice under subparagraph (B), after consulting with the Secretary of Agriculture or, for public health pesticides, with the Secretary of Health and Human Services, shall

issue for public comment and peer review a report that contains, at a minimum—

- (i) information on the production and uses in the United States of the pesticide; and
- (ii) a review of the benefits and risks in the United States and internationally associated with the production and uses in the United States and internationally of the pesticide.

(4) NOTICE AND REPORT AFTER DECISION THAT GLOBAL ACTION IS WARRANTED UNDER THE POPS CONVENTION OR THAT FURTHER CONSIDERATION OF THE PESTICIDE IS WARRANTED UNDER THE LRTAP POPS PROTOCOL.—

(A) APPLICABILITY.—This paragraph applies if—

- (i) the POPs Review Committee decides, under paragraph 7(a) of Article 8 of the POPs Convention, that global action is warranted with respect to the pesticide that is the subject of the proposal, or the Conference decides under paragraph 8 of that Article that the proposal shall proceed; or
- (ii) the Executive Body determines pursuant to paragraph 2 of Executive Body Decision 1998/2 that further consideration of the pesticide is warranted and therefore requires 1 or more technical reviews of the proposal.

(B) NOTICE.—After the date of the decision or determination under subparagraph (A), the Administrator may—

- (i) publish in the Federal Register a notice of the decision or determination; and
- (ii) provide an opportunity for comment on the decision or determination.

(C) REQUIRED ELEMENTS OF NOTICE.—A notice under subparagraph (B) shall—

- (i) identify the pesticide that is the subject of the proposal;
- (ii) include a summary of the POPs Review Committee or Conference decision and the basis for the decision or the Executive Body determination and the basis for the determination;
- (iii) for a pesticide proposed for addition to an Annex of the POPs Convention, request information and comment on socioeconomic considerations covered under Annex F of the POPs Convention, including on the technical feasibility and costs and benefits of the range of possible prohibitions outlined pursuant to clause (vii);
- (iv) for a pesticide proposed for listing on an Annex to the LRTAP POPs Protocol, request information and comment on—

(I) any additional measures not outlined in the notice published pursuant to clause (vii) that may exist to reduce the risks of adverse health effects on human health or the environment that result from its long-range transboundary atmospheric transport;

(II) whether any of the additional measures or the measures outlined in the notice published pursuant to subparagraph (vii) are technically feasible; and

(III) the associated costs and benefits of the additional measures and the measures outlined in the notice published pursuant to subparagraph (vii);

(v) request information on any current or anticipated production or use of the pesticide that is the subject of the proposal for which the United States may wish to seek an exemption or acceptable purpose under the POPs Convention or allowed restricted use or condition under the LRTAP POPs Protocol;

(vi) request information set forth under subparagraph (D);

(vii) outline a broad range of possible actions that the United States might take to address any risks that the pesticide may pose;

(viii) specify whether there have been any changes to registrations of or tolerances for the pesticide since the date of publication of the notice under paragraph (3); and

(ix) include a statement that any information submitted may be part of the record of any cancellation proceeding related to the pesticide that the Administrator may undertake under section 6.

(D) *PROVISION OF INFORMATION.*—Within 60 days after the date of publication of the notice under subparagraph (B), or within a later date as determined by the Administrator, any interested person may provide to the Administrator—

(i) consistent with the information needs described in Annex F to the POPs Convention, any information relevant to—

(I) a risk management evaluation carried out under paragraph 7 of Article 8 of the POPs Convention; or

(II) a decision by the Conference under paragraph 9 of Article 8 of the POPs Convention;

(ii) consistent with the information needs for the technical review described in paragraph 2 of Executive Body Decision 1998/2, any information relevant to such technical review or to an Executive Body decision made under paragraph 3 of Article 14 of the LRTAP POPs Protocol;

(iii) any information relevant to an action under this subsection; and

(iv) information on any article in use that consists of, contains, or is contaminated with the pesticide.

(E) *REPORT BY ADMINISTRATOR.*—Based upon information received under this paragraph and any other information available to the Administrator, the Administrator, not later than 240 days after the date of publication of the notice under subparagraph (B), after consulting with the Sec-

retary of Agriculture or, for public health pesticides, with the Secretary of Health and Human Services, shall issue a report for public comment and peer review that contains, at a minimum, information relating to the costs and benefits of the prohibitions or restrictions outlined in response to paragraph (4)(C)(vii) that could be placed on the sale, distribution, production, use, or disposal of the pesticide (including the possible consequences of using alternative products or processes).

(5) NOTICE AFTER RECOMMENDATION THAT CONFERENCE CONSIDER LISTING OR AFTER COMPLETION OF A TECHNICAL REVIEW.—

(A) IN GENERAL.—If the POPs Review Committee recommends, under paragraph 9 of Article 8 of the POPs Convention, that the Conference consider making a Conference listing decision with respect to the pesticide in accordance with the proposal, or after completion of a technical review of a proposal to list a pesticide on an Annex to the LRTAP POPs Protocol, the Administrator may—

(i) publish in the Federal Register a notice of the recommendation or completion of the technical review; and

(ii) provide opportunity for comment on the recommendation or the technical review.

(B) REQUIRED ELEMENTS.—A notice under subparagraph

(A) shall—

(i) include a summary of the POPs Review Committee recommendation and the basis for the recommendation or a summary of the technical review;

(ii) summarize any control measures for the pesticide that are identified by the POPs Review Committee or in the technical review; and

(iii) include a statement that any information submitted may be part of the record of any cancellation proceeding related to the pesticide that the Administrator may undertake under section 6.

(6) PROVISION OF INFORMATION TO THE PUBLIC.—Not later than March 1st of each calendar year (and September 1st of each calendar year unless nothing has changed from the March 1st notice or the Administrator has notified the public in other Federal Register notices of the changes), the Administrator shall publish a notice in the Federal Register that—

(A) identifies any pesticide that is the subject of a listing proposal under Article 8 of the POPs Convention or Article 14 of the LRTAP POPs Protocol and describes, as of December 31st of the previous calendar year (or June 31st of the current calendar year for notices published on September 1st), the exact status of the proposal in the relevant listing process, including—

(i) whether the POPs Review Committee or Conference has decided that, under Article 8, paragraphs 4 or 5 of the POPs Convention, the proposal to list the pesticide shall proceed to preparation of a risk profile of the pesticide;

(ii) *whether the POPs Review Committee has completed a risk profile;*

(iii) *whether the POPs Review Committee or Conference has decided that, under Article 8, paragraph 7(a) or paragraph 8 of the POPs Convention, the proposal to list the pesticide shall proceed to preparation of a risk management evaluation of the pesticide that includes analyses of possible control measures for the pesticide;*

(iv) *whether the POPs Review Committee has completed the risk management evaluation;*

(v) *whether the POPs Review Committee has made a listing recommendation to the Conference regarding the pesticide and a general description of the recommendation;*

(vi) *whether the Executive Body has determined that a technical review of the proposal to list a pesticide on Annex I or II of the LRTAP POPs Protocol is warranted;*

(vii) *whether a technical review of a proposal to list a pesticide on Annex I or II of the LRTAP POPs Protocol has been completed; and*

(viii) *whether any task force, working group, or other body that is subsidiary to the Executive Body has made a recommendation regarding the listing of the pesticide on Annex I or II of the LRTAP POPs Protocol and a description of the recommendation;*

(B) *identifies any pesticide that the Conference or Executive Body has added to Annex A or B of the POPs Convention or Annex I or II of the LRTAP POPs Protocol since the last notice the Administrator published under this paragraph and provides a general description of the control measures related to the pesticide; and*

(C) *describes generally any regulatory action that the Administrator has taken, is taking, or has listed as under development or review in the Unified Regulatory Agenda (as required by section 602 of title 5, United States Code) related to any pesticide that the Conference or Executive Body added to Annex A or B of the POPs Convention or Annex I or II of the LRTAP POPs Protocol since the last notice the Administrator published under this paragraph.*

The Administrator shall consider any comments that the Administrator receives on the notices that the Administrator publishes under this paragraph.

(7) **CONSIDERATION OF INFORMATION IN CANCELLATION OF REGISTRATION OR PROHIBITION OF PRODUCTION FOR EXPORT OR EXPORT OF PESTICIDES.**—*In a cancellation proceeding under section 6 for a pesticide listed on Annex A or Annex B of the POPs Convention or Annex I or Annex II of the LRTAP POPs Protocol, the Administrator may consider—*

(A) *the record compiled under paragraphs (3), (4), and (5) of this subsection;*

(B) *domestic sale, distribution, production, export, and use of the pesticide;*

(C) *national and international consequences that are likely to arise as a result of domestic regulatory actions (including the possible consequences of using alternative products or processes);*

(D) *for pesticides listed on Annex A or Annex B of the POPs Convention—*

(i) the POPs Review Committee recommendation under paragraph 9 of Article 8 of the POPS Convention;

(ii) the Conference listing decision;

(iii) information that the United States submits to the POPs Review Committee or to the Conference pursuant to Article 8 of the POPs Convention; and

(iv) the reports, including any versions of the reports revised to reflect information received through public comment and peer review, that the Administrator is required to issue for public comment and peer review pursuant to paragraphs (3)(E) and (4)(E) of this subsection;

(E) *for pesticides listed on Annex I or Annex II of the LRTAP POPs Protocol—*

(i) any technical review conducted pursuant to paragraph 2 of Executive Body Decision 1998/2;

(ii) the LRTAP POPs Protocol listing decision;

(iii) the reports, including any version of the reports revised to reflect information received through public comment or peer review, that the Administrator is required to issue for public comment and peer review pursuant to paragraphs (3)(E) and (4)(E) of this subsection; and

(iv) information that the United States submitted to the Executive Body, or a subsidiary of the Executive Body, in relation to a technical review or listing decision; and

(F) *scientific information included in or used to develop or support the items listed in subparagraphs (A), (B), (C), (D), and (E).*

In determining the weight to give such scientific information, the Administrator shall consider the extent to which it is consistent with generally accepted scientific principles, including, when available, peer reviewed science and supporting studies.

(8) **NO EFFECT ON OTHER PROVISIONS.**—*Nothing in this subsection authorizes any sale, distribution, use, production, or disposal of any POPS pesticide or LRTAP POPS pesticide that is prohibited under any other provision of law. Nothing in this subsection should be interpreted as interfering with or being a prerequisite to the Administrator taking any action authorized by section 6.*

(9) **REQUIREMENTS FOR EXPORTS.**—*In the case of a pesticide or active ingredient used in producing a pesticide identified by the Administrator as listed on Annex III of the PIC Convention in a notice issued under paragraph (12)(C), any person that distributes in commerce the pesticide or active ingredient used in producing a pesticide for export shall comply with any export*

conditions or restrictions identified by the Administrator in the notice.

(10) *PRE-EXPORT NOTICES.*—

(A) *IN GENERAL.*—

(i) *REQUIREMENT.*—*In the case of—*

(I) *a pesticide or active ingredient used in producing a pesticide that the Administrator determines to be banned or severely restricted under paragraph (12)(A);*

(II) *a pesticide or active ingredient used in producing a pesticide identified by the Administrator in a notice issued under paragraph (12)(C); or*

(III) *a POPs pesticide the export of which is not prohibited under paragraph (2);*

the exporter of the pesticide or active ingredient used in producing a pesticide shall provide to the Administrator notice of the intent of the exporter to export the pesticide.

(ii) *TIMING OF NOTICE FOR BANNED OR SEVERELY RESTRICTED PESTICIDE OR ACTIVE INGREDIENT USED IN PRODUCING A PESTICIDE.*—

(I) *FIRST EXPORT.*—*In the case of a first export that an exporter makes from the territory of the United States to each importing foreign state after the Administrator issues a notice under paragraph (12)(A), the exporter shall provide the notice so that the Administrator receives the notice not earlier than 45 nor later than 15 calendar days before the date of export.*

(II) *SUBSEQUENT EXPORTS.*—*In the case of subsequent exports to the importing foreign state in calendar years subsequent to the notification provided under subclause (I), the exporter shall provide the notice so that the Administrator receives the notice not earlier than 45 nor later than 15 calendar days before the date of the first export in each calendar year.*

(iii) *TIMING OF PRE-EXPORT NOTICE FOR PESTICIDES LISTED ON ANNEX III OF THE PIC CONVENTION.*—

(I) *FIRST EXPORT.*—*In the case of a first export that an exporter makes from the territory of the United States to each importing foreign state after the Administrator notifies the public under paragraph (12)(C), the exporter shall provide the notice so that the Administrator receives the notice not earlier than 45 nor later than 15 calendar days before the date of export.*

(II) *SUBSEQUENT EXPORTS.*—*In the case of subsequent exports by the exporter to the importing foreign state in calendar years subsequent to the notification provided under subclause (I), the exporter shall provide the notice so that the Administrator receives the notice not earlier than 45 nor later than 15 calendar days before the date of the first such subsequent export in each calendar year.*

(III) *CHANGED CIRCUMSTANCES MERITING NEW NOTICE.*—If conditions or restrictions imposed by the importing foreign state change and the Administrator notifies the public of the change under paragraph (12)(C), or if an earlier pre-export notice no longer applies, the exporter shall provide the notice so that the Administrator receives the notice not earlier than 45 nor later than 15 calendar days before the date of export.

(iv) *TIMING OF PRE-EXPORT NOTICE FOR PESTICIDE THE EXPORT OF WHICH IS NOT PROHIBITED UNDER PARAGRAPH (2).*—

(I) *FIRST EXPORT OF THE CALENDAR YEAR.*—In the case of the first export that an exporter makes from the territory of the United States to each importing foreign state of a pesticide not prohibited from being exported under paragraph (2), the exporter shall provide the notice so that the Administrator receives the notice not earlier than 45 nor later than 15 calendar days before the date of the first export.

(II) *SUBSEQUENT EXPORTS.*—In the case of subsequent exports by the exporter to the importing foreign state in calendar years subsequent to the notification provided under subclause (I) to the importing foreign state, the exporter shall provide the notice so that the Administrator receives the notice not earlier than 45 nor later than 15 calendar days before the date of the first such subsequent export in each calendar year.

(III) *CHANGED CIRCUMSTANCES MERITING NEW NOTICE.*—If the information provided in an earlier pre-export notice is no longer accurate, the exporter shall provide the notice so that the Administrator receives the notice not earlier than 45 nor later than 15 calendar days before the date of export.

(B) *ALTERNATE TIME FRAME FOR NOTICES.*—

(i) *DISCRETIONARY ALTERNATE TIME FRAMES.*—Notwithstanding clauses (ii), (iii), and (iv) of subparagraph (A), the Administrator may set an alternate time frame if the Administrator determines that such alternate time frame is appropriate and is able, within such alternate time frame, to administer notice activities in accordance with the PIC Convention and comply with the POPs Convention.

(ii) *MANDATORY REVIEW OF STATUTORY TIME FRAMES AND PROCESSES.*—Within 18 months of entry into force for the United States of the PIC Convention and within 18 months of entry into force for the United States of the POPs Convention, the Administrator shall review the statutory time frames for receipt of pre-export notices and the Administrator's processing of such notices. In review of such time frames and processes, the Administrator shall consider whether amendments to the time frames and modifications to the processes

would be appropriate to administer notice activities in accordance with the PIC Convention and to comply with the POPs Convention.

(C) CONTENT OF PRE-EXPORT NOTICES.—

(i) NOTICES FOR BANNED OR SEVERELY RESTRICTED PESTICIDE OR ACTIVE INGREDIENT USED IN PRODUCING A PESTICIDE.—A notice under subparagraph (A)(ii) shall include—

- (I) the name and address of the exporter;
- (II) the name and address of the appropriate designated national authority of the United States;
- (III) the name and address of the appropriate designated national authority of the importing foreign state, if available;
- (IV) the name and address of the importer;
- (V) the name of the pesticide or active ingredient used in producing a pesticide for which the notice is required;
- (VI) the expected date of export;
- (VII) information relating to the foreseen uses of the pesticide or active ingredient used in producing a pesticide, if known, in the importing foreign state;
- (VIII) information on precautionary measures to reduce exposure to, and emission of, the pesticide or active ingredient used in producing a pesticide;
- (IX) information relating to the concentration of the pesticide or active ingredient used in producing a pesticide; and
- (X) any other information specified in Annex V to the PIC Convention.

(ii) NOTICES FOR PESTICIDES LISTED ON ANNEX III OF THE PIC CONVENTION.—A notice under subparagraph (A)(iii) shall include—

- (I) all of the information required to be included under subparagraph (C)(i);
- (II) any information relating to export conditions or restrictions identified by the Administrator in the notice issued under paragraph (12)(C) with respect to the pesticide;
- (III) a general description of the manner in which the export complies with those conditions; and
- (IV) any other information that the Administrator determines by order published in the Federal Register to be necessary for effective enforcement of the export conditions or restrictions applicable to the pesticide.

(iii) NOTICES FOR PESTICIDE THE EXPORT OF WHICH IS NOT PROHIBITED UNDER PARAGRAPH (2).—A notice submitted to the Administrator under subparagraph (A)(iv) shall include—

- (I) the name and address of the exporter;
- (II) the name and address of the importer;

(III) a specification of the identity of the POPs pesticide;

(IV) a general description of how the export is in accordance with the provisions related to export in paragraph 2 of Article 3, or other applicable provision, of the POPs Convention; and

(V) such other information as the Administrator determines by order published in the Federal Register to be necessary for enforcement of the export-related obligations of the POPs Convention applicable to the pesticide.

(D) *PRE-EXPORT NOTICES ACCOMPANYING EACH EXPORT.*—

An exporter shall ensure that a copy of the most recent applicable pre-export notice accompanies each shipment for export and is available for inspection upon export for—

(i) any pesticide or active ingredient used in producing a pesticide that the Administrator has identified under paragraph (12)(C) as being listed on Annex III of the PIC Convention; or

(ii) any POPs pesticide that is exported.

(E) *RETENTION OF PRE-EXPORT NOTICES.*—

(i) *IN GENERAL.*—An exporter required to provide a notice under clauses (iii) and (iv) of subparagraph (A) shall comply with sections 8 and 9 and any regulations promulgated under those sections with regard to maintenance of the notice and other documents used to generate the notice and with regard to their availability for inspection and copying.

(ii) *TIME PERIOD FOR RETENTION.*—Notwithstanding clause (i), such exporter shall maintain a copy of the notice and other documents used to generate the notice for a period of not less than 3 years beginning on the date on which the notice is provided.

(11) *LABELING REQUIREMENTS.*—

(A) *IN GENERAL.*—In the case of any pesticide or active ingredient used in producing a pesticide that is the subject of a notice issued under subparagraph (A) or (C) of paragraph (12) and that is sold, distributed, or produced, the pesticide or active ingredient used in producing a pesticide, shall, in accordance with the PIC Convention—

(i) bear labeling information relating to risks or hazards to human health or the environment; and

(ii) be accompanied by shipping documents that include any relevant safety data sheets on the pesticide.

(B) *CUSTOM CODES.*—A pesticide or active ingredient used in producing a pesticide that is the subject of a notice issued under paragraph (12)(C) and that is distributed or sold for export shall be accompanied by shipping documents that bear, at a minimum, any appropriate harmonized system customs codes assigned by the World Customs Organization.

(12) *NOTICE REQUIREMENTS AND EXEMPTION.*—

(A) *DETERMINATION WHETHER PESTICIDE IS BANNED OR SEVERELY RESTRICTED.*—

(i) *IN GENERAL.*—The Administrator shall determine whether a pesticide or active ingredient used in producing a pesticide is banned or severely restricted within the United States (as those terms are defined by the PIC Convention).

(ii) *NOTICE OF DETERMINATIONS.*—Notwithstanding any other provision of law, the Administrator shall issue to the Secretariat of the PIC Convention and the public a notice of each determination under subparagraph (A) that includes—

(I) in the case of a notice to the Secretariat of the PIC Convention, the information specified in Annex I to the PIC Convention; and

(II) in the case of a notice to the public, at a minimum, a summary of that information.

(B) *NOTICE TO FOREIGN COUNTRIES.*—

(i) *IN GENERAL.*—Notwithstanding any other provision of law, on receipt of a notice of intent to export under paragraph (10)(A)(ii), the Administrator shall provide a copy of the notice to the designated national authority of the importing foreign state.

(ii) *NONIDENTIFIED DESIGNATED NATIONAL AUTHORITY.*—In a case in which a designated national authority has not been identified, the Administrator shall provide the notice of intent to export to any other appropriate official of the importing foreign state, as identified by the Administrator.

(C) *NOTICE TO PUBLIC.*—

(i) *IN GENERAL.*—The Administrator shall issue a notice to inform the public of—

(I) any pesticide that is listed on Annex III to the PIC Convention; and

(II) any condition or restriction of an importing foreign state that is applicable to the import, in accordance with the PIC Convention, of the pesticide.

(ii) *TIMING.*—A notice required under clause (i) shall be issued not later than 90 days after, and any conditions or restrictions described in clause (i)(II) shall take effect not later than 180 days after, the date of receipt of a notice from the Secretariat of the PIC Convention who—

(I) transmits import decisions of the parties to the PIC Convention; or

(II) provides notice of the failure of the parties to provide import decisions.

(iii) *TREATMENT OF CONDITIONS AND RESTRICTIONS.*—A condition or restriction identified by a notice required under clause (i) shall be considered to be an export condition or restriction for the purpose of paragraph (9).

(D) *NOTICE OF EXEMPTION.*—The Administrator may issue a notice exempting any pesticide or active ingredient used in producing a pesticide from the requirements of paragraphs (9) through (11) if the Administrator deter-

mines that the exemption would be consistent with the PIC Convention or POPs Convention.

(13) *HARMONIZATION OF POPS CONVENTION AND LRTAP POPS PROTOCOL.—*

(A) *IN GENERAL.—If a pesticide is both a POPs pesticide and a LRTAP POPs pesticide, in the case of a conflict between a provision of this subsection applicable to a POPs pesticide and a provision of this subsection applicable to a LRTAP POPs pesticide, the more stringent provision shall apply, as determined by the Administrator.*

(B) *APPLICATION.—In the case of a pesticide described in subparagraph (A), this paragraph shall be applied in such a manner as to ensure that the United States is in compliance with its obligations under the POPs Convention and the LRTAP POPs Protocol with respect to the pesticide.*

(14) *HARMONIZATION OF POPS CONVENTION AND PIC CONVENTION.—*

(A) *IN GENERAL.—If the export of a pesticide is addressed or restricted under paragraphs (2) through (7) and paragraphs (9) through (12), all of those paragraphs shall apply to the pesticide.*

(B) *CONFLICT.—In the case of a conflict between paragraphs (2) through (7) and paragraphs (9) through (12) with respect to a pesticide, the more stringent provision shall govern.*

(C) *APPLICATION.—With respect to a pesticide, paragraphs (2) through (12) shall be applied in manner as to ensure that the United States is in compliance with its obligations under both the POPs Convention and the PIC Convention with respect to the pesticide.*

(f) *REGULATIONS.—*

(1) *IN GENERAL.—The Administrator may promulgate such regulations as the Administrator determines to be necessary—*

(A) to facilitate implementation of this section;

(B) to allow the pre-export notice requirement under this section and any pre-export notice requirement in other provisions of this Act or in any other Federal law to be satisfied by a single notice; and

(C) to ensure compliance with the PIC Convention, the POPs Convention, and the LRTAP POPs Protocol.

(2) *IMPORTATION OF PESTICIDES AND DEVICES.—The Secretary of the Treasury, in consultation with the Administrator, shall prescribe regulations for the enforcement of subsection (c) of this section.*

* * * * *

ADMINISTRATIVE CORRESPONDENCE

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC, September 8, 2006.

DEAR MR. SPEAKER: The Administration would like to underscore the importance of the United States becoming a Party to the Stockholm Convention on Persistent Organic Pollutants, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain

Hazardous Chemicals and Pesticides in International Trade, and the Protocol on Persistent Organic Pollutants, negotiated under the United Nations Economic Commission for Europe's Convention on Long Range Transboundary Air Pollution.

Passing legislation to implement these Agreements is a top priority for this Administration. President Bush, in a Rose Garden ceremony, stated that the Stockholm Convention on Persistent Organic Pollutants address "a global environmental problem" and that "we must work to eliminate, or at least severely restrict, the release of the toxic substances, without delay." He also emphasized that the substances addressed by the treaty "respect no boundaries and can harm Americans, even when released abroad."

The Administration expressed full support for H.R. 3849 and H.R. 4591, which were reported out of the House Agriculture and House Energy and Commerce Committees, respectively. These bills provide domestic authority for the United States to join and implement these Agreements. We encourage the House leadership to move forward in September with full floor consideration. As each year passes, the Parties to the Agreements make substantive and procedural decisions that determine their future direction. For this reason, it is critical that the United States has the ability to influence those decisions.

Thank you for your support. You have our firm commitment to work together closely to enable the United States to join these very important international Agreements.

Sincerely,

CONDOLEEZZA RICE,
Secretary of State.
STEPHEN L. JOHNSON,
Administrator, Environmental Protection Agency.
MIKE JOHANNIS,
Secretary of Agriculture.

Hon J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC, July 22, 2005.

DEAR MR. SPEAKER: In a 2001 Rose Garden ceremony, the President called for the United States to join the Stockholm Convention on Persistent Organic Pollutants, also known as "POPs." In 2002, the Administration submitted proposed legislation to Congress that would enable us to join and participate in POPs, as well as the Protocol to the 1979 Convention on Long Range Transboundary Air Pollution on Persistent Organic Pollutants and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade. We have welcomed the intensive work Congress committed to the legislative process throughout the last session. It is now critical that the legislative process be completed.

In May, the U.S. delegation returned from the first POPs Conference of the Parties in Uruguay. Since we were not a party, we failed to obtain membership on an important committee that will review and make recommendations on additional chemicals for future inclusion on the POPs list. The U.S. role in POPs meetings

could be further limited if Congress does not act quickly to adopt necessary implementing legislation, compounding the negative repercussions for U.S. leadership in international chemicals fora.

The Senate and the House have made significant progress developing legislation that provides a solid foundation on which to rapidly conclude the process. We are committed to working closely with you and other Members of Congress to accomplish this shared objective.

Thank you for your support on this effort.

Sincerely,

STEPHEN L. JOHNSON
Administrator, Environmental Protection Agency.

CONDOLEEZZA RICE,
Secretary of State.

